



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

**AUG 28 2012**

REPLY TO THE ATTENTION OF:

WC-15J

**CERTIFIED MAIL 7001 0320 0006 0190 8599**  
**RETURN RECEIPT REQUESTED**

Mr. Richard G. Marley, P.E.  
Director of Public Works  
City of Decatur, Illinois  
1 Gary K. Anderson Plaza  
Decatur, Illinois 62523-1196

Subject: City of Decatur Compliance Order to 33 U.S.C. §§ 1318 (a) and 1319(a)  
Docket No. V-W-12-AO-21

Dear Mr. Marley:

Protecting water quality is a high priority of the U.S. Environmental Protection Agency. Pollutants such as pathogens discharged to waterways from sanitary sewer overflows (SSOs) contribute to poor water quality and impairment of uses of those waterways.

EPA is issuing this Compliance Order to the City of Decatur, Illinois pursuant to Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. §§ 1318(a) and 1319(a). In 2012, a representative of EPA received information provided by the City of Decatur that indicates that the City had several SSOs and had a high frequency of basement backups within its separate and combined sanitary sewer collection system in the last 5 years. EPA finds that the City of Decatur has violated Section 301(a) of the CWA, 33 U.S.C. § 1311(a) and seeks to bring the City of Decatur back into compliance with the CWA.

Please send your written responses to the addresses specified in the Order. This Order requires you to immediately cease all sanitary sewer discharges and take any necessary action to comply with the CWA. Please note that within 10 days after this Order's receipt, the City of Decatur may request a conference with EPA to discuss the terms of the Order or any other information you think we should consider.

If you have any questions or concerns, please contact Keith Middleton, at (312) 886-6465 or [middleton.keith@epa.gov](mailto:middleton.keith@epa.gov), or your legal counsel may contact Robert Guenther, Associate Regional Counsel, at (312) 886-0566 or [guenther.robert@epa.gov](mailto:guenther.robert@epa.gov).

Sincerely,



Tinka G. Hyde  
Director, Water Division

cc: Ryan McCrady, City of Decatur  
Roger Calloway, Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**City of Decatur  
Decatur, Illinois,**

**Respondent.**

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) **DOCKET NO. V-W-12-AO-21**  
)  
) **Proceeding under Sections 308(a) and**  
) **309(a) of the Clean Water Act, 33 U.S.C.**  
) **§ 1318(a) and § 1319(a)**  
)  
)

**COMPLIANCE ORDER**

1. The Director of the Water Division, U.S. Environmental Protection Agency (EPA), Region 5, is issuing this administrative Compliance Order (Order) to the City of Decatur (Respondent) under Sections 308(a) and 309(a) of the Clean Water Act (CWA), 33 U.S.C. § 1318(a) and § 1319(a).

**STATUTORY BACKGROUND**

2. Section 301(a) of the CWA, 33 U.S.C. § 1311(a), prohibits the discharge of any pollutant by any person except, among other things, in compliance with a National Pollutant Discharge Elimination System (NPDES) permit issued pursuant to Section 402 of the CWA, 33 U.S.C. § 1342.
3. Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, among other things, that whenever required to carry out the objective of this chapter, the Administrator of EPA shall require the owner or operator of any point source to: establish and maintain such records, make such reports, and provide such other information as she may reasonably require.
4. Section 309(a)(3) of the CWA, 33 U.S.C. § 1319(a)(3), states that whenever the Administrator of EPA finds a person in violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a), the Administrator of EPA may issue an order requiring that person to comply with the provisions of the CWA and the requirements of the permit.

**DEFINITIONS**

5. "Backup" or Building/Property Backup" means any release of wastewater to public or private property that is caused by Blockages or other conditions in the Sanitary Sewer System. Such releases can include, but are not limited to, those that occur in basements.
6. "Blockage" means the partial or complete interruption of flow as a result of some obstruction in any portion of the Sanitary Sewer System.

7. "Bypass," as defined by 40 C.F.R. § 122.41(m), means the intentional diversion of waste streams from any portion of a treatment facility.
8. "Collection System" means all portions of your sewer system that collect and convey sanitary or combined sewage for treatment to the Sanitary District of Decatur Main Sewage Treatment Plant (STP). The Collection System, for purposes of this Order, does not refer to portions designed to convey exclusively sanitary sewage.
9. "Combined Collection Sewer System(s)" or "Combined Sewer System(s)" means all portions of your sewer system designed to convey municipal sewage (domestic, commercial, and industrial wastewater) and storm water through a single-pipe system to the wastewater treatment plant or to combined sewer outfalls.
10. "Day" or "days" means a calendar day or calendar days. In computing any period of time under this Order, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period will run until the close of the next business day.
11. "Force Main" means any pipe that carries wastewater under pressure from the discharge side of a pump to a point of gravity flow downstream.
12. "Gravity Sewer" means a pipe that receives, contains, and conveys wastewater that is not normally under pressure and is intended to flow unassisted under the influence of gravity.
13. "Infiltration" means water, other than wastewater, that enters your Sanitary Sewer System (including sewer service connections) from the ground through such means as defective pipes, pipe joints, connections, or manholes.
14. "Inflow" means water, other than wastewater, that enters your Sanitary Sewer System from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, foundation drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm water, surface runoff, street wash waters, or drainage.
15. "I/I" means the total quantity of water from Infiltration and Inflow without distinguishing the source.
16. "Private Lateral" means any portion of a Sanitary Sewer System, not owned by you, used to convey wastewater from a building or buildings to that portion of a Sanitary Sewer System owned by you.
17. "Pump Station" means facilities comprised of pumps or other equipment that lift wastewater to a higher hydraulic elevation, including all related electrical, mechanical, and structural systems necessary to the operation of that pumping station.

18. "Record" or "records" means any recording of information in tangible form. It includes, but is not limited to, documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, emails, computer files, computer printouts, and computer databases.
19. "Sanitary Sewer Overflow" or "SSO" means an overflow, spill, diversion, or release of wastewater from or caused by your Sanitary Sewer System. This term includes: (i) discharges to waters of the United States from the Sanitary Sewer System; and (ii) any release of wastewater from the Sanitary Sewer System to public or private property that does not reach waters of the United States, including Backups.
20. "Separate Sanitary Sewer Collection System(s)" or "Separate Sanitary Sewer System(s)" means any portions of your sewer system (including all pipes, Force Mains, Gravity Sewer segments, overflow structures, regulators, Pump Stations, manholes, and components thereof), designed and constructed to collect and convey only sewage, and not storm water, from residences, commercial buildings, industrial plants, and institutions for treatment at the Sanitary District of Decatur Main STP.
21. "Storm Sewer Collection System(s)" or "Storm Sewer System(s)" means a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned or operated by the City of Decatur that is designed or used for collecting or conveying storm water. This term does not include a combined sewer system.
22. "Unauthorized Combined Sewer Discharge (s)" means an overflow, spill, diversion, or release of wastewater from or caused by your Combined Sewer System(s). This term will include: (i) discharges to waters of the United States from the Combined Sewer System(s); and (ii) any release of wastewater from the Combined Sewer System(s) to public or private property that does not reach waters of the United States, including Backups.
23. "Wastewater Treatment Plant(s)" or "WWTP(s)" means any wastewater treatment plants operated by Sanitary District of Decatur (SDD) under National Pollutant Discharge Elimination System (NPDES) Permit Number IL0028321 and located at 501 Dipper Lane, Decatur, Illinois and all components of this sewage treatment plants.
24. "You" for purposes of this Information Request refers to the City of Decatur and to any agents, employees, contractors, or other entities that performed work or acted in any way on behalf of, or at the direction of, the City of Decatur.

### **FINDINGS**

25. Respondent is a municipality incorporated under the laws of the State of Illinois. Respondent maintains a system of separate and combined sewers to convey sanitary sewage to treatment by the SDD.

26. On December 27, 2011, Respondent received an Information Request, pursuant for Section 308 of the CWA, which included a checklist for Respondent to complete and return to EPA. Respondent responded to this information request on February 13, 2012 with the checklist and the majority of the requested information.
27. On May 30, 2012, EPA called Respondent and discussed questions concerning Respondent's February 13, 2012 submittal. Respondent sent EPA an email on June 1, 2012 with additional information that was requested during the phone discussion.
28. Respondent owns and operates both a Combined Sewer System and a Separate Sanitary Sewer System.
29. SDD owns and operates four Combined Sewage Outfalls within Respondent's city limits. The four outfalls are permitted in SDD's NPDES permit (IL0028321) with the following names: Outfall 003 Oakland Avenue Treated Combined Sewage Outfall, South Edward Street Treated Combined Sewage Outfall, McKinley Avenue Treated Combined Sewage Outfall, and Seventh Ward Treated Combined Sewage Outfall.
30. Respondent maintains a Storm Water Sewer System (NPDES permit number ILR400181) for the areas that contain a Separated Sanitary Sewer System. The Storm Sewer System has final dispositions to Lake Decatur and the Sangamon River. Lake Decatur and the Sangamon River are waters of the United States and thus "navigable waters" pursuant to section 502(7) of the CWA, 33 U.S.C. § 1362(7).
31. Any constructed overflow point or other discrete fissure in Respondent's sanitary sewer system from which sewage has been or may be discharged to the waters of the United States constitutes a "point source," pursuant to section 502(14) of the CWA, 33 U.S.C. § 1362(14).
32. Sanitary sewage is a "pollutant," pursuant to section 502(6) of the CWA, 33 U.S.C. § 1362(6).
33. Respondent has identified ten SSOs that have occurred in the last five years.
34. The table attached to this Order as Attachment B provides a summary of the SSO events, including the date of the SSO, the SSO location, the estimated SSO volume discharged, the cause of the SSO, the weather conditions during the SSO, the final disposition of the SSO, the affected waterway, any mitigating actions taken by the Respondent, and whether the SSO was reported to the Illinois Environmental Protection Agency (IEPA).
35. Eight of the SSO discharges detailed in Attachment B are "discharges of a pollutant" from a "point source" to a "navigable water," as those terms are defined at Section 502(7), (12) and (14) of the CWA, 33 U.S.C. § 1362(7), (12) and (14), and 40 C.F.R. § 122.2.

36. Respondent has identified Property Backups that occurred within Respondent's Separate Sanitary Sewer Collection System and Respondent's Combined Sewer System.
37. The table attached to this Order as Attachment C provides the number of Property Backups that occurred due to a blockage within the private lateral, the number of Property Backups that occurred due to a blockage within the public main sewer line, and Property Backups that occurred due to heavy rainfall.
38. Respondent did not provide the number of Property Backups that occurred within the Separate Sanitary Sewer System portion or the number of Property Backups that occurred within the Combined Sewer System portion of the Respondent's collection system.
39. Respondent does not have a NPDES permit which allows SSOs or Unauthorized Combined Sewer Discharges. Respondent's discharge of sewage or other pollutants into any waters of the United States without a NPDES permit, as identified in either Attachments B or C, is a violation of Section 301(a) of the CWA, 33 U.S.C. § 1311(a).

### **COMPLIANCE REQUIREMENTS**

Pursuant to Sections 308(a) and 309(a)(3) of the CWA, 33 U.S.C. § 1318(a) and §1319(a)(3), EPA orders that:

40. Within 5 days of the effective date of this Order, Respondent must submit a written certification of its intent to comply with this Order. Attachment A summarizes the compliance schedule for all tasks required by this Order.
41. Respondent must immediately begin forwarding copies to EPA of all SSO or CSO notifications it makes to IEPA or the Macon County Health Department. Such copies must be forwarded to EPA at the address listed in Paragraph 52 below.
42. Respondent must properly manage, operate, and maintain both its Combined Sewer System and Separate Sanitary Sewer Collection System at all times. Proper management, operation, and maintenance will be further defined in the Respondent's Capacity, Management, Operation, and Maintenance (CMOM) Program to be developed in accordance with Paragraph 49 and will include, but not be limited to, the following requirements:
  - a. Provide adequate capacity to convey base flows and peak flows for all parts of Respondent's Separate Sanitary Sewer System and its Combined Sewer System for proper treatment at SDD's WWTP before discharge to waters of the United States;
  - b. Eliminate SSOs in all parts of its Separate Sanitary Sewer Collection System; and
  - c. Eliminate Unauthorized Combined Sewer Discharges in all parts of its Combined Sewer System.

43. Within 30 days of the effective date of this Order, Respondent must implement a procedure to document all SSOs and Property Backups from its sewage collection system. In addition, Respondent must generate Backup summaries on a quarterly basis. Information in these summaries must include the dates on which the Backups occurred, locations of the Backups, whether the Backup occurred within the Separate Sanitary Sewer System or the Combined Sewer System, reasons the Backups occurred, estimated volume of Backup water which exited the Separate Sanitary Sewer System/Combined Sewer System, responsibility for the Backups, methods used to remove Backup water from property, final disposition of Backup water (i.e. receiving waters of Backup), measures used to mitigate environmental harm if Backup water is untreated, and actions taken to mitigate future Backups. To the extent that any item of the above information is not reasonably ascertainable by Respondent when preparing the summary, Respondent must report its best estimate for such information and explain the basis for its estimate. Respondent must submit the quarterly Backup summaries to EPA and IEPA within 21 calendar days after the end of each quarter to the addresses listed in Paragraph 52 below. Respondent must inform EPA of the date when the enhanced Backup data logging program is implemented.
44. Within 120 days of the effective date of this Order, Respondent must submit to EPA for approval a Sewer System Assessment Study (SSA Study) work plan. Respondent must conduct the SSA study as generally described in Paragraph 45. The SSA work plan must include, but is not limited to the following elements:
- a. Identify existing Combined Sewer System data and existing Separate Sanitary Sewer System data to be utilized in the development of the SSA Study.
  - b. Identify additional data that will need to be collected to fulfill the requirements in Paragraph 45.
  - c. Provide a list of deliverables that would be submitted in the final SSA Study Report.
  - d. Prepare a schedule to begin implementing the activities that need to be conducted to satisfy Paragraph 45 (Final SSA Study Report).
  - e. Provide the locations, an implementation schedule, and a rationale for placement of the flow monitors and rain gauges and any other additional required equipment as described in Paragraph 45.
  - f. Identify, through an initial review of the existing data, sewer sheds, sewer sub-basins, or areas with excessive I/I that cause or contribute to SSOs, Unauthorized Combined Sewer Discharges, and Property Backups.
45. Within 18 months of the approval of the SSA study work plan, as described in Paragraph 44, Respondent must submit to EPA a final SSA Study Report as generally described in



“Existing Sewer Evaluation & Rehabilitation,” Water Environmental Federation (WEF) Manual of Practice FD-6, ASCE Manual and Report on Engineering Practice No. 62. The SSA Study will involve the use of verified existing attribute data and the collection and use of additional physical attribute data for Respondent; this may include but not be limited to the use of verified existing rainfall and flow data, the collection and use of additional rainfall and flow data, the monitoring of flows at key locations within Respondent’s Combined Sewer System and Separate Sanitary Sewer System, the monitoring of groundwater and rainfall at appropriate location throughout both the Respondent’s Combined Sewer System and Separate Sanitary Sewer System and the documentation of the condition of portions of the Respondent’s Combined Sewer System and Separate Sanitary Sewer System causing or contributing to SSOs, Unauthorized Combined Sewer Discharges, and Property Backups. The goal of the SSA Study is to identify sources and estimate quantities of clear water I/I entering Respondent’s Separate Sanitary System, to eliminate sources of clear water I/I entering the Respondent’s Separate Sanitary System, to mitigate the impact of excessive I/I on SSOs and Property Backups within Respondent’s Separate Sanitary Sewer System and to develop alternatives to reduce identified sources of I/I. The SSA study will also target the Respondent’s Combined Sewer System through the modeling of both the sanitary sewer systems and the development of alternatives to prevent Unauthorized Combined Sewer Discharges and Property Backups within the Combined Sewer System. The final SSA Study must include, but is not limited to:

- a. Any changes and deviations from the SSA work plan, as described in Paragraph 44.
- b. A physical survey of both the Combined Sewer System and the Separate Sanitary Sewer System. This includes the confirmation of the location, size, and capacity of all major sewers, manholes, and pump stations and visually inspecting sewers, manholes, and pump stations for structural deficiencies.
- c. An assessment of the various components of the sanitary sewer system to further identify areas within the Separate Sanitary Sewer System with the highest contribution of I/I and to prioritize mitigation in these locations. Through this assessment, Respondent must:
  - i. Monitor the contribution from rainfall to a sewershed within the Respondent’s jurisdictional boundary through the uses of rain gauges, as necessary to the I/I prioritization of sub-basins described above.
  - ii. Conduct both a dry and wet weather flow monitoring program, at a minimum, at key locations within the Combined Sewer System and the Separate Sanitary Sewer System. Such monitoring should be conducted to adequately characterize both the sanitary sewer collection systems with respect to sewersheds, sewer sub-basins, or city neighborhoods within the Separate Sanitary Sewer Collection System that exhibit high I/I. Areas

with high I/I may contribute to system hydraulic deficiency and possible SSOs or Property Backups.

- iii. Identify the locations of sources of I/I clear water entry into the separate sewer system, and an estimate of the benefit (in terms of dollars per gallon of I/I removed) of eliminating each source.
  - iv. Identify the locations of any hydraulic deficiencies (including components of the system with limiting capacity) that are generating SSOs or Unauthorized Combined Sewer Discharges themselves.
  - v. Identify the areas that are subject to chronic Property Backup incidents in both the Combined Sewer System and the Separate Sanitary Sewer System.
  - vi. Determine the need for permanent flow meters to be installed and maintained at all sewer connection points with sewerage owned and operated by the Sanitary District of Decatur.
- d. An evaluation of the capacity of both the Combined Sewer System and the Separate Sanitary Sewer System. This capacity evaluation will include all major sewer lines, force mains, pump stations, all known overflow points, all areas with known chronic Property Backup issues, and any other portions of the both sewer systems that must be assessed so as to allow for the technically sound evaluation of all known causes of chronic SSOs or chronic Unauthorized Combined Sewer Discharges. The capacity evaluation should specifically identify the hydraulic capacities of aforementioned portions of the sewer systems and compare those capacities to existing and future projected (through current year plus 20 years), average and peak, dry and wet weather. The capacity evaluation will consider local rainfall data and the impact of an appropriate range of rainfall events, based on return frequency and duration, on peak wet weather flows within Respondent's Combined Sewer System and Storm Sewer System. At a minimum the capacity evaluation should include analysis of the following:
- i. Average dry weather and peak dry weather flow data.
  - ii. The following specified wet weather storm events:
    - 1. 2-year/"critical duration" storm event
    - 2. 5-year/"critical duration" storm event
    - 3. 10-year/24-hour storm event
    - 4. 10-year/"critical duration" storm event

The "critical duration" means the duration of a specific return frequency storm event (e.g., 2-year, 5-year, 10-year) which creates the greatest stress on the sewer system, including the maximum surcharge and system outflow. The critical duration can be determined using flow

monitoring data or modeling data. The critical duration is determined by comparing various durations of the specified storm and calculation the peak wet weather flow rate and volume of runoff for each. The duration resulting in the highest peak wet weather flow rate or largest total volume is the “critical duration” storm. The storms designed above shall be based upon the most current National Oceanic and Atmospheric Administration (NOAA) storm return frequency information for Respondent’s geographic region, and all analyses of such storms will used a temporal rainfall distribution pattern recognized in the technical literature as appropriate for Respondent’s geographic region.

- iii. Use of adequate, accurate, and sufficiently current physical data (e.g., invert and ground elevations, pipe diameters, slopes, pipe run lengths, Manning roughness factors, manhole sizes and configurations, pump stations performance factors, etc), based on existing and obtained survey data.
  - iv. Proper model verification and calibration using specific dry weather and wet weather flow data.
  - v. Characterization of both the Combined Sewer System and the Seperate Sanitary Sewer System performance by identifying, for each dry and wet weather condition considered, each pipe segment operating in surcharged condition, and each manhole or structure at which a SSO, an Unauthorized Combined Sewer Discharge, or a Property Backup might be expected to occur.
- e. Identify both short-term and long-term alternatives to eliminate sources of I/I and/or potential hydraulic deficiencies that cause SSOs, Unauthorized Combined Sewer Discharges, and Property Backups to occur within the Respondent’s Combined Sewer System and Separate Sanitary Sewer System. Specially, each alterative, at a minimum, must:
- i. Either eliminate the source I/I or the hydraulic deficiencies or both.
  - ii. Provide a cost/benefit ratio analysis for each alterative.
  - iii. Recommend alternatives for both eliminating I/I source and hydraulic deficiencies.
  - iv. Include a prioritized list of projects and a schedule for the implementation of all recommended projects, with a final completion date of no later than two years after the final approval of the final SSA Study. If a project is not recommended or if an implementation schedule is affected due solely to the affordability of the project, Respondent must

provide an analysis of the cost effectiveness of the project, including any impacts on the user rates.

46. Within 30 days of EPA's approval of the final SSA Study Report, Respondent must begin implementing the recommendations of the SSA Study Report on the schedule contained in the approved SSA Study Report. The implementation schedule, as approved by EPA will be incorporated into this Order.
47. Respondent must provide semi-annual reports on the recommended projects chosen, as set forth in the SSA Study Report's implementation schedule to EPA (Paragraph 45.e). The reports are due on January 31 and July 31 of each year, following the commencement of the SSA Study's implementation schedule.
48. Within 120 calendar days of the effective date of this Order, Respondent must submit an initial Capacity, Management, Operation, and Maintenance (CMOM) Template, containing a CMOM Program outline for review and comment by EPA. The CMOM Template must include a status report of how the Respondent currently address the following items (CMOM Template Items) identified in Sections I, III, IV(A, E, F, and L), V(A, F, and G), and VI of the Table of Contents (attached) for Chapter 3 of the EPA's *Guide for Evaluating CMOM Programs at Sanitary Sewer Collection Systems*, EPA 305-B-05-002 (January 2005) (the Guide). The status report will note any current deficiencies in these CMOM Template Items and will detail how the Respondent will improve these before the final CMOM Program submittal. The status report will demonstrate how the other items within in the Guide will be implemented or put in place by the time of the submission of the CMOM Program.
49. Within 18 months of the approval of the initial CMOM Template, as described in Paragraph 48, Respondent must prepare and submit to EPA a CMOM Program designed to address all parts of its Separate Sanitary Sewer System in accordance with all listed provisions outlined in the attached Chapter 3 Table of Contents from the Guide. The submitted CMOM Program will include all on-going, up-to-date CMOM documentation, including the checklist in Chapter 3 of the Guide. The Guide can be found online at [http://www.epa.gov/npdes/pubs/cmom\\_guide\\_for\\_collection\\_systems.pdf](http://www.epa.gov/npdes/pubs/cmom_guide_for_collection_systems.pdf). The CMOM Program must incorporate any updates to the status report items listed in Paragraph 48. Respondent must submit the completed CMOM Program documentation for review, comment, and approval by EPA.
50. Respondent must implement the approved CMOM Program no later than 30 calendar days after final approval by EPA.
51. Within one year of approval of the CMOM Program identified in Paragraph 49, Respondent must submit a CMOM report to U.S. EPA. The report will included a completed CMOM Program Self Assessment from EPA's website (<http://www.epa.gov/npdes/pubs/cmomselfreview.pdf>) and must summarize steps taken to implement the approved CMOM Program including operational changes or improvements implemented as part of the approved CMOM Program, the amount of

sewers inspected or cleaned, any cross-connections detected or eliminated, and any dye testing or clear water source elimination measures implemented. The report should also identify any SSOs, Unauthorized Combined Sewer Discharge, or City-caused Property Backups that have occurred during the implementation period and what the responses, causes, and where the final deposition of the SSOs, Unauthorized Combined Sewer Discharge, and City-caused Property Backup was.

### **SUBMITTALS**

52. Respondent must submit all information required by this Order to EPA at this address:

Director, Water Division  
Attn: Keith Middleton  
Water Enforcement Compliance Assurance Branch (WC-15J)  
U.S. Environmental Protection Agency, Region 5  
77 West Jackson Boulevard  
Chicago, Illinois 60604

53. Respondent must submit all information required by this Order under an authorized signature containing the following certification:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate and complete. I am aware that there are significant penalties for submitting false statements and information, including the possibility of fines and imprisonment for knowing violations.

54. If the signatory finds that any portion of the submittal is false or incorrect, the signatory must notify EPA immediately. Knowing submittal of false information to EPA in response to this Order may subject Respondent to criminal prosecution under Section 309(c) of the CWA, 33 U.S.C. § 1319(c), as well as 18 U.S.C. §§ 1001 and 1341.

55. Respondent may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B, for any portion of the information it submits to EPA. Information subject to a business confidentiality claim is available to the public only to the extent allowed by 40 C.F.R. Part 2, Subpart B. If Respondent fails to assert a business confidentiality claim, EPA may make all submitted information available, without further notice, to any member of the public who requests it. Effluent data, as defined in 40 C.F.R. § 2.302(a)(2), and information in permit applications is not entitled to confidential treatment under 40 C.F.R. Part 2, Subpart B. 40 C.F.R. § 122.7.

56. EPA may use any information submitted in response to this Order in support of an administrative, civil or criminal action against Respondent.
57. The information required to be submitted pursuant to this Order is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. §§ 3501-3520, because it seeks collection of information by an agency from specific individuals or entities as part of an administrative action or investigation.

**EFFECTIVE DATE AND OPPORTUNITY TO CONFER**

58. Respondent has the opportunity to confer with and submit information to EPA concerning the validity of this Order.
59. Such information may include evidence (*i.e.*, documentation), arguments and comments regarding the legal and factual determinations on which the Order is based, its applicability to Respondent, the appropriateness of its terms or any other relevant and material issue.
60. If Respondent chooses to confer orally with EPA, it shall request a conference within 10 calendar days of the date of signature of this Order by the Water Division Director. To request a conference, contact Keith Middleton at (312) 886-6465 or Respondent's attorney may contact Robert Guenther, Office of Regional Counsel at (312) 886-0566.
- a. Any conference held pursuant to this Paragraph shall take place within 10 calendar days from the date of the request, unless the time period is extended by agreement of the parties. Respondent may appear in person, participate by telephone or be represented by an attorney or other representative.
  - b. Respondent is responsible for reducing all oral information it presents at the conference, including comments and arguments, to writing and submitting that document to EPA within five calendar days following the conference, unless the time period is extended by agreement of the parties.
  - c. Such a conference is not a formal evidentiary hearing and does not constitute a proceeding to challenge this Order. EPA will not make a formal transcript of the conference.
61. Regardless of whether Respondent requests a conference, Respondent may submit written information to EPA, as provided in Paragraph 59 above, within 10 days calendar days of the date of signature of this Order by the Water Division Director, unless the time period is extended by agreement of the parties. Respondent shall submit any written information according to the instructions in Section V of this Order.
62. EPA shall deem a failure to either request a conference or submit written information within 10 calendar days of the date of signature of this Order by the Water Division Director as a waiver of the opportunity to confer.

63. If Respondent does not request a conference or submit written information pursuant to this Section, this Order shall become final and effective 15 calendar days after its date of signature by the Water Division Director.
64. EPA shall consider all relevant and material written information submitted by Respondent pursuant to this Section and determine that: (1) this Order should become final as originally issued; (2) this Order should be modified; or (3) this Order should be withdrawn.
65. If EPA determines that this Order should become final as originally issued or should be modified, then EPA shall address the material and relevant information submitted by Respondent in a responsiveness summary.
- a. All written information submitted by Respondent and EPA's responsiveness summary shall be included in the administrative record supporting this Order.
  - b. The administrative record shall be available for public review under the Freedom of Information Act.
66. If EPA determines that this Order should become final as originally issued, EPA will notify Respondent of that decision in writing and shall provide Respondent with a copy of the responsiveness summary.
67. If EPA determines that this Order should be modified, then EPA will modify the Order and issue a modified order to Respondent and shall provide Respondent with a copy of the responsiveness summary.
68. If EPA determines that this Order should be withdrawn, EPA will provide Respondent with written notice of the withdrawal of this Order.
69. No modification or withdrawal of this Order shall be effective unless and until it is issued in writing by EPA.
70. If EPA determines this Order should become final as originally issued, this Order shall become final and effective seven calendar days after the date of EPA's signature of the written notification to Respondent of that determination.
71. If EPA modifies this Order, the modified order shall become final and effective seven calendar days after the date of EPA's signature of the modified Order.

### **GENERAL PROVISIONS**

72. Respondent may seek federal judicial review of a final Order pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C §§701-706. Section 706, which is set forth at <http://uscode.house.gov/download/pls/05C7.txt>, states the scope of such review.

73. This Order is not a permit under the CWA and does not waive or modify Respondent's ongoing obligation and responsibility to ascertain and comply with all other applicable federal, State or local laws, regulations, ordinances, permits, or licenses.
74. EPA reserves all rights and remedies, legal and equitable, available to address any violation cited in this Order and any other violation of the CWA, and to enforce this Order. Neither issuance of this Order by EPA nor compliance with its terms precludes further enforcement action pursuant to Section 309 of the CWA, 33 U.S.C. § 1319, for the violations cited in this Order, for any other violations of the CWA committed by Respondent, or to enforce this Order.
75. The CWA includes provisions for administrative penalties, for civil injunctive relief and penalties, and for criminal sanctions for violations of the CWA. Specifically, EPA may:
- a. Assess civil administrative penalties under 33 U.S.C. § 1319(g) and 40 C.F.R. Part 19 of \$11,000 per day for each violation that occurred after March 15, 2004, through January 12, 2009, and \$16,000 per day for each violation that occurred after January 12, 2009. An administrative penalty action may seek up to \$157,500 for violations occurring after March 15, 2004, through January 12, 2009, and \$177,500 for violations occurring after January 12, 2009;
  - b. Seek civil injunctive relief and penalties for violations of the CWA under 33 U.S.C. § 1319(b) and 40 C.F.R. Part 19. U.S. EPA may seek civil judicial penalties of \$32,500 per day for each violation that occurred after March 15, 2004, through January 12, 2009, and may seek civil judicial penalties of \$37,500 per day for each violation occurring after January 12, 2009; and
  - c. Seek criminal sanctions, including fines and imprisonment, for negligent or knowing violations of the CWA under 33 U.S.C. § 1319(c).

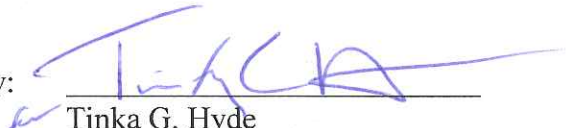


### CERTIFICATION OF COMPLETION

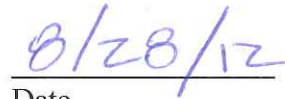
76. Within 30 days after Respondent concludes that it has complied with all requirements of this Order, Respondent must submit to EPA a written certification of completion summarizing all actions taken to comply with all requirements of this Order.
77. After review of Respondent's certification of completion, EPA will notify Respondent whether it has satisfied all requirements of this Order.
78. This Order will terminate when Respondent receives notification from EPA that it has satisfied all requirements of this Order.

IT IS SO ORDERED

By:

  
Tinka G. Hyde  
Director, Water Division  
U. S. Environmental Protection Agency  
Region 5

Date



**Attachment A: Schedule for Compliance**

Task	Task Completion Date Relative to Effective Date of Order			Task Completion Date Relative to EPA approval of CMOM template and SSA work plan		
	5 days	30 days	120 days	18 months	2.5 years	3.5 years
Submit written certification of intent to comply with the Order	X					
Implement procedure to report all SSOs and property backup to EPA and generate a property backup log for quarterly submittal.		X				
Revise and formalize the current FMEA for all SSOs.		X				
Submit Sewer System Assessment (SSA) Study work plan			X			
Submit final SSA Study Report, including recommendations and implementation schedule				X		
Complete work listed in SSA Study Report				X		
CMOM Template			X			
Submit final CMOM Program				X		
CMOM Program report					X	
Finish of recommend SSA Study projects*						X

**Notes:**

\* Respondent must submit semi-annual status reports concerning the recommend projects progress

City of Decatur

Direct Sanitary Sewer Overflows - Attachment B

Date	Location	Estimated Volume Discharged	Cause	Weather Conditions	Disposition of SSO	Affected Waterway	Mitigating Actions	Reported to IEPA
5/22/2007	1250 East Mount Road	Unknown	Grease and sediment in main line	Dry weather	Spring Creek	Sangamon River	Televised and cleaned; added to route maintenance book	Yes
4/21/2008	Route 48 & Route 105	Unknown	Roots and Grease in Main Line	Dry weather	Drainage Ditch Tributary to Sangamon River	Sangamon River	Televised and cleaned; added to route maintenance book	Yes
4/23/2008	Linden Court	Unknown	Roots in Main Line	Dry weather	Drainage Ditch Tributary to Spring Creek	Sangamon River	Televised and cleaned; added to route maintenance book	Yes
6/23/2009	1000 block of South Main Street	Unknown	Failure of private service intrenal drop stack in manhole	Dry weather	Drainage Ditch Tributary to Lake Decatur	Lake Decatur/Sangamon River	Repaired internal drop stack	Yes

10/25/2010	3700 block of Portage Place	Unknown	Grease in Main Line	Dry weather	Storm Sewer Tributary to Spring Creek	Sangamon River	grease removed from main and apartment management notified on proper grease management	Yes
11/29/2010	North of Seven Decatur School	Unknown	Debris obstruction in Main Line	Dry weather	Spring Creek	Sangamon River	Letters sent out to all upstream residents to educate on non-permitted items in sewer	Yes
1/9/2011	1673 South Taylorville Road	Unknown	Debris obstruction in Main Line	Dry weather	None	None	Televised and cleaned	Yes
1/11/2011	1759 Hunt Court	Unknown	Roots in Main Line	Dry weather	none	None	Line excavated and repaired to remove roots	Yes
4/10/2011	102 Ridgeway Drive	Unknown	Roots in Main Line/ Excessive Rain	Rain	Storm Sewer Tributary to Lake Decatur	Lake Decatur/ Sangamon River	Root cut and added to the annual herbicide program	Yes

4/22/2011	53 Lynette Drive	Unknown	Roots in Main Line/ Excessive Rain	Rain	Drainage Ditch Tributary to Stephens Creek	Sangamon River	Root cut and added to the annual herbicide program	Yes
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City of Decatur  
Property Backup Data - Attachment C

	Total	Blockage in Private Line	Blockage in Public Line*	Rainfall
2007	466	373	89	4
2008	909	588	109	212
2009	517	397	89	31
2010	446	338	53	55
2011	362	297	59	6

TOTAL	2700	1993	399	308
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Notes:

\* These Property Backups have been determined to be the City of Decatur's responsibility

## **Table of Contents**

I.	General Information - Collection System Description .....	3-4
II.	Continuing Sewer Assessment Plan .....	3-5
III.	Collection System Management .....	3-6
	A. Organizational Structure .....	3-6
	B. Training .....	3-7
	C. Communication and Customer Service .....	3-8
	D. Management Information Systems .....	3-10
	E. SSO Notification Program .....	3-11
	F. Legal Authority .....	3-12
IV.	Collection System Operation .....	3-14
	A. Budgeting .....	3-14
	B. Compliance .....	3-16
	C. Water Quality Monitoring .....	3-17
	D. Hydrogen Sulfide Monitoring and Control .....	3-18
	E. Safety .....	3-19
	F. Emergency Preparedness and Response .....	3-21
	G. Modeling .....	3-23
	H. Engineering - System Mapping and As-built Plans (Record Drawings) .....	3-24
	I. Engineering - Design .....	3-25
	J. Engineering - Capacity .....	3-26
	K. Engineering - Construction .....	3-27
	L. Pump Station Operation .....	3-28
	1. Pump Stations - Inspection .....	3-29
	2. Pump Stations - Emergencies .....	3-30
	3. Pump Stations - Emergency Response and Monitoring .....	3-31
	4. Pump Stations - Recordkeeping .....	3-32
	5. Pump Stations - Force Mains and Air/Vacuum Valves .....	3-33
V.	Collection System Maintenance .....	3-34
	A. Maintenance Budgeting .....	3-34
	B. Planned Maintenance .....	3-35
	C. Maintenance Scheduling .....	3-36
	D. Maintenance Right-of-Way .....	3-37
	E. Sewer Cleaning .....	3-38
	1. Sewer Cleaning - Cleaning Equipment .....	3-39
	2. Sewer Cleaning - Chemical Cleaning and Root Removal .....	3-40
	F. Parts Inventory .....	3-41
	G. Equipment and Tools Management .....	3-42
VI.	Management Information Systems: Performance Indicators .....	3-43
VII.	Sewer System Capacity Evaluation (SSES) .....	3-45
	A. Internal TV Inspection .....	3-45
	B. Survey and Rehabilitation (general) .....	3-46
	C. Sewer Cleaning Related to I/I Reduction .....	3-47
	D. Flow Monitoring .....	3-48
	E. Smoke Testing and Dyed Water Flooding .....	3-49

F. Manhole Inspection .....	3-50
VIII. Rehabilitation .....	3-52
A. Manhole Repairs .....	3-52
B. Mainline Sewers .....	3-53



## Attachment

### AUTHORITY AND CONFIDENTIALITY PROVISIONS

#### Authority

Information requests are made under authority provided by Section 308 of the Clean Water Act, 33 U.S.C. 1318. Section 308 provides that: "Whenever required to carry out the objective of this Act, ...the Administrator shall require the owner or operator of any point sources to (i) establish and maintain such records, (ii) make such reports, (iii) install, use and maintain such monitoring equipment and methods (including where appropriate, biological monitoring methods), (iv) sample such effluent... and (v) provide such other information as he may reasonably require; and the Administrator or his authorized representative, upon presentation of his credentials, shall have a right of entry to...any premises in which an effluent source is located or in which any records...are located, and may at reasonable times have access to and copy any records...and sample any effluents..."

**Please be advised that the submission of false statements is subject to federal prosecution under 18 U.S.C. §1001 and that this or any other failure to comply with the requirements of Section 308 as requested by U.S. EPA may result in enforcement action under the authority of Section 309 of the Clean Water Act, which provides for specified civil and/or criminal penalties.**

#### Confidentiality

U.S. EPA regulations concerning confidentiality and treatment of business information are contained in 40 CFR Part 2, Subpart B. Information may not be withheld from the Administrator or his authorized representative because it is viewed as confidential. However, when requested to do so, the Administrator is required to consider information to be confidential and to treat it accordingly, if disclosure would divulge methods or processes entitled to protection as trade secrets (33 U.S.C. §1318(b) and 18 U.S.C. §1905), except that effluent data (as defined in 40 CFR §2.302(a)(2)) may not be considered by U.S. EPA as confidential.

The regulations provide that one may assert a business confidentiality claim covering part or all of any trade secret information furnished to U.S. EPA at the time such information is provided to the Agency. The manner of asserting such claims is specified in 40 CFR §2.203(b). In the event that a request is made for release of information covered by such claim of confidentiality or the Agency otherwise decides to make determination as to whether or not such information is entitled to such confidential treatment, notice will be provided to the claimant prior to any release of the information. However, if no claim of confidentiality is made when information is furnished to U.S. EPA, any information submitted to the Agency may be made available to the public without prior notice.

**Note:** This information request is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 et seq.